

**Minerals Management Service
Interim Policy Document**

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Series: Offshore Minerals Management

Title: Accepting and Using Contributions for Environmental and Technical Work Related to the Minerals Management Service Outer Continental Shelf Program

Originating Office: Environmental Division, Offshore Minerals Management

1. Purpose. These policies have been developed in response to recent legislation that clarifies the ability of the Minerals Management Service (MMS) to receive outside contributions for environmental work and other research. Public Law 110-161 (Division F, Title I, Section 121) has amended 43 U.S.C. 1473 to include “in fiscal year 2008 only contributions of money and services to conduct work in support of the orderly exploration and development of Outer Continental Shelf (OCS) resources including, but not limited to, preparation of environmental documents such as impact statements and assessments, studies, and related research.”

2. Objective. This Interim Policy Document (IPD) articulates the MMS policy on accepting and using contributions for environmental and technical work related to the MMS’s regulatory and statutory authority and requirements on the OCS.

3. Authorities.

A. 43 U.S.C. 1473, as amended (P.L. 110-161§ 121).

B. Minerals Management Service Manual, Section 374, Chapter 6, Donations.

4. Reference. Department of Interior (DOI) Departmental Manual, 374 DM 6, “Donation Guidelines”.

5. Definitions.

A. Contribution is the money, data, studies, reports and/or services provided to support or perform contribution work.

B. Contribution work is the work that will be applied to completing the objectives of a contribution. Examples of contribution work are the activities that result in an Environmental Impact Statement (EIS), a study, or data collection.

C. Environmental documents are environmental impact assessment and evaluation documents such as, but not limited to, an EIS or an Environmental Assessment.

6. Policy. The MMS policy is to accept and use contributions in a manner that (1) promotes and enhances its programs and activities on the OCS consistent with applicable laws, for example by

expanding the MMS's capacity to conduct environmental reviews; (2) does not create a conflict or the appearance of a conflict of interest between the MMS and the entities it regulates or any other prohibited source; and (3) maintains the MMS's high standards for scientific and technical adequacy. In addition, the MMS's policy on contributions will be subject to all relevant and applicable considerations described in 374 DM 6, DOI Departmental Manual "Donation Guidelines". Particular attention will be given to Section 6.6 "Considerations When Accepting Donations" to ensure that no inappropriate influence is associated with or is perceived to be associated with a contribution. The following policies and procedures are to be put in place to promote these objectives.

A. Acceptance of Contributions.

(1) Acceptable Contributions: The MMS may accept contributions for environmental documents, studies, data collection, and for other purposes that are important for accomplishing the MMS's regulatory and statutory mission and enhancing its programs on the OCS. The acceptance of contributions will be at the discretion of the MMS through the approvals of the Associate Director, Administration and Budget, and the Associate Director, Offshore Minerals Management. Contributions for work other than environmental documents, data collection, and studies and related research will require approval by the Director.

(2) Unacceptable Contributions: The MMS will not accept contributions under the following conditions: (1) the MMS will not accept contributions that are intended for general use, at MMS's discretion, or for unspecified objectives; (2) the MMS will not accept contributions to recoup costs of already completed projects; (3) the MMS will not accept contributions for any EIS prepared for the Five-Year OCS Oil and Gas Program or for lease sales scheduled in the Five-Year Program; (4) the MMS will not accept contributions which, if accepted, would cause a reasonable person with knowledge of the relevant facts to question the impartiality, integrity, and objectivity with which agency programs are administered; (5) the MMS will not accept contributions which, if accepted, would create an organizational conflict of interest, or the appearance of such.

B. Contributions of Scientific and Engineering Research and Data. The MMS may accept contributions of environmental, technological, and other data and scientific and engineering investigations that would meet a legitimate information need to further the MMS's OCS mission and programs.

C. Monetary Contributions. The MMS may accept monetary contributions for environmental documents, for environmental and technical studies, for data collection, and for other purposes that further and enhance the MMS's OCS mission and programs. Monetary contributions will be evaluated prior to acceptance to determine the suitability of the work to the MMS's objectives and policies, and the extent to which the contribution amount will accomplish the intended work.

(1) Contractor Selection: If all or part of a monetary contribution will be used to hire contractors to complete a substantial amount of the contribution work, the MMS will either select contractors or pursue third-party contracting. The MMS will be solely responsible for selecting a contractor to prepare an EIS under this policy consistent with the Council on

Environmental Quality's guidance for contracting under the National Environmental Policy Act (NEPA) (40 CFR 1506.5(b) and (c)) which states that an EIS, "shall be prepared directly by or by a contractor selected by the lead agency."

(2) Additional Contributions: A contributor will not be obligated to make additional contributions if the initial contribution amount was insufficient to complete the contribution work. The MMS, however, may accept additional voluntary contributions from a contributor to complete the work, or may complete the work at its own expense.

(3) Prioritization and Scheduling: The MMS will schedule contribution work according to existing priorities, schedules, and available resources. The MMS will provide an estimate for the scheduling and completion of the contribution work based on these factors. The MMS, however, will not guarantee the completion of the contribution work within the timeframe established in the initial schedule.

(4) Content and Methodology: The MMS will have authority for final decisions on the scientific and technologic methodologies used in studies, data collection efforts, and environmental documents. The contributor will have no editorial rights to the contents of studies and environmental documents prepared by the MMS or contractors.

(5) Government Salaries: The MMS will not ordinarily accept monetary contributions to create and fill positions within government. Any exception that occurs in a specific situation in which it would benefit the government to use contributions to hire permanent or temporary MMS employees without creating a conflict of interest or the appearance of a conflict of interest would require approval by the Director, MMS.

D. Contributions of Services. The MMS may accept non-monetary contributions such as subject matter expertise, analytical and modeling capabilities, use of facilities and equipment, and other services that may assist the MMS in accomplishing its OCS mission.

7. Responsibilities.

A. Director, Minerals Management Service, is responsible for:

(1) Ensuring that the use of contributions is consistent with Departmental and MMS guidance and policies that apply to the acceptance and use of contributions and donations without creating or appearing to create a conflict of interest and to assure that no inappropriate influence is attached or is perceived to be attached to a contribution;

(2) Approving contributions that will be used to create permanent or temporary Federal positions; and

(3) Approving contributions for purposes other than environmental documents, studies, and related research.

B. Associate Director, Offshore Minerals Management (AD/OMM), is responsible for approving the acceptance of contributions for environmental documents, data collection, and studies and related research.

C. Chief, Environmental Division (ENVD), is responsible for:

(1) Providing guidance and direction on accepting and using contributions to ensure that MMS is in compliance with laws, regulations, and departmental guidance that apply to the acceptance and use of contributions;

(2) Receiving and reviewing requests from Regional Directors/Manager and Headquarters Division Chiefs to accept a contribution proposal; and

(3) Forwarding contribution proposals deemed acceptable to the MMS Ethics Officer.

D. Regional Directors/Manager and Headquarters Division Chiefs are responsible for:

(1) Serving as the Points of Contact for submission of environmental and technical contribution proposals;

(2) Evaluating the compatibility of the contribution work with MMS policies, needs, standards, and interests;

(3) Evaluating the degree to which the contribution can accomplish the contribution work; and

(4) Forwarding acceptable contribution proposals to the Chief, ENVD.

E. Other Recipients of Contribution Proposals are responsible for the appropriate review of the contribution proposal and forwarding the proposal through approved channels to a Regional Director/Manager or Headquarters Division Chief.

F. Associate Director, Administration and Budget (AD/A&B), is responsible for approval of the acceptance of contributions while ensuring that appropriate ethical standards and budgetary guidelines are followed, and is also responsible for approval of a negotiated contribution agreement.

G. Chief, Finance Division, is responsible for establishing an account fund for approved contributions and for ensuring the payment of invoices charged to the contribution account.

H. Chief, Procurement Division, is responsible for negotiating the agreement between the MMS and the contributor, and for conducting a competitive procurement to acquire services for completing the contribution work.

I. Ethics Officer, Human Resources Division, is responsible for reviewing all available information pertaining to the source of the contribution and the rationale for the offering. All

information will be considered relative to applicable ethics guidelines to ensure compliance with regulations and to avoid the appearance of impropriety.

J. Chief, Human Resources Division, is responsible for reviewing appealed ethical decisions and preparing written explanations of the final decision regarding an appeal.

K. Chief, Budget Division, is responsible for confirming that the MMS has budgetary authority to accept a particular contribution under budgetary language and for notifying, and ensuring approval from, the Department Budget Office and from the Office of Management and Budget (OMB).

8. Procedures.

A. Preliminary Process for Accepting Contributions:

- (1) The recipient of a proposal will forward it to either a Regional Director/Manager or a Headquarters Division Chief.
- (2) The Regional Director/Manager or a Headquarters Division Chief will review the contribution proposal to determine the relevance of the contribution to MMS's needs with a recommendation to either approve or disapprove the contribution.
- (3) Regional Directors/Managers and Headquarters Division Chiefs will forward contribution proposals recommended for approval to the Chief, ENVD, in Headquarters.
- (4) If approved by the Chief, ENVD, the proposal will be forwarded to the MMS Ethics Officer for review and approval. The MMS Ethics Officer's decisions can be appealed to the Chief, Human Resources Division.
- (5) Contributions approved by the MMS Ethics Officer will be reviewed by the Chief, Budget Division, for confirmation of the MMS's budgetary authority to accept the particular contribution.
- (6) Contributions approved by the Chief, Budget Division, will be presented to the AD/A&B for review and approval.
- (7) Once a contribution is reviewed and approved by the AD/A&B, it will go to the AD/OMM for final approval or for forwarding to the Director for final approval.

B. Approved Contributions Acceptance Process:

- (1) After the AD/OMM or Director has approved the acceptance of a contribution, the acceptance will be documented and sent to the Chief, Procurement Division, for review. The Chief, Procurement Division, will negotiate a written agreement, which must include a description of the contribution and associated contribution work.

(2) The DOI Solicitor's Office must provide legal approval of the negotiated agreement before it can take effect and any contribution work can begin.

(3) Negotiated contribution agreements reviewed and approved by the DOI Solicitor's Office will be reviewed by the AD/A&B for approval.

(4) The Chief, Finance Division, and the Chief, Procurement Division, will be notified of any negotiated contribution agreements approved by the AD/A&B and will begin to administer the negotiated contribution agreement.

9. Reporting Requirements. Once a decision is made to accept a contribution, the Budget Division must be notified of the decision. The Budget Division is responsible for notifying and ensuring approval from the Department Budget Office and from OMB.

10. Cancellation. This IPD will remain in effect for the remainder of the time that the statutory authority is granted, or until incorporated into the MMS Manual, cancelled, or superseded by another IPD.

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